

MDR Tracking Number: M5-04-2477-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 04-08-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The IRO has determined that the two (2) hours of work hardening daily from 12/09/03 through 12/22/03 and one (1) hour of work hardening daily from 12/23/03 through 12/24/03 **was** medically necessary. The remaining hours of work hardening from 12/09/03 through 12/24/03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On May 18, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

CPT codes 97545 and 97546 for dates of service 11/17/03 through 11/26/03 and from 12/30/03 through 1/08/04 were denied by the carrier. Review of the requestor's and the respondent's documentation revealed that neither party submitted copies of EOBs. The carrier states that the work hardening program was billed by the Podiatrist, Dr. F, who is not on the TWCC approved doctor list. The HCFA reveals the billing address and the address of the facility where the services were rendered is ____, which is CARF accredited for comprehensive occupational rehabilitation programs and is listed on the TWCC website with the work hardening program exempted from preauthorization and concurrent review. The carrier further states that requestor did not submit any requests for reconsideration for the dates of service listed above. Review of the requestor's documentation does not reflect proof of submission—although there are HCFAs stamped "request for reconsideration", there is no proof of carrier receipt (i.e. certified mail receipt) in accordance with Rule 133.308 (f)(3). Therefore, **reimbursement is not recommended**.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with TWCC reimbursement methodologies for Return to Work Rehabilitation Programs for dates of service after August 1, 2003 per Commission Rule 134.202(e)(5)(C) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 12/09/03 through 12/24/03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 27th day of October 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

July 16, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION
Amended Determination B**

RE: MDR Tracking #: M5-04-2477-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
----- Case #:

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ----- IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ----- external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior

to the referral to ----- for independent review. In addition, the ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 38 year-old female who sustained a work related injury on ----- . The patient reported that while at work as a bus driver, she was involved in a motor vehicle accident. The patient was initially evaluated in the emergency room where she underwent x-rays and was prescribed analgesics. The patient then presented to the treating chiropractic office where she began treatment that included therapeutic massage, TENS unit, chiropractic care, rehabilitative exercises, hot/cold packs, x-rays and biofreeze. The patient has also been treated with analgesic medication, muscle relaxation medication, anti-inflammatory medication, one steroid injection, and medications to help her sleep. The patient had also participated in a work hardening/conditioning program. The diagnoses for this patient have included cervical neuritis/radiculitis and lumbar neuritis/radiculitis.

Requested Services

97545-WH-AP-Work Hardening initial & 97546-WH-AP-Work Hard/each additional hour from 12/9/03 through 12/24/03.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Clinical evaluation 1/13/04
2. Daily Work Hardening notes 11/11/03 through 1/8/04

Documents Submitted by Respondent:

1. Same as above.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a 38 year-old female who sustained a work related injury to her back on ----- . The ----- chiropractor reviewer also noted that the diagnoses for this patient have included cervical neuritis/radiculitis and lumbar neuritis/radiculitis. The ----- chiropractor reviewer further noted that the treatment for this patient's condition has included therapeutic massage, TENS unit, chiropractic care, rehabilitative exercises, hot/cold packs, x-rays and biofreeze, analgesic medication, muscle relaxation medication, anti-inflammatory medication, one steroid injection, and participated in a work hardening/conditioning program. The ----- chiropractor reviewer indicated that the patient showed improvement in her pain level during the first two weeks of work hardening demonstrated by the patient's pain level going from 8/10 to a 4/10. However, the ----- chiropractor reviewer explained that the documentation provided only supported 1-2 hours of

the proposed program was actually done. Therefore, the ----- chiropractor consultant concluded that 2 hours of work hardening daily from 12/9/03 through 12/22/03 were medically necessary to treat this patient's condition. The ----- chiropractor consultant further concluded that 1 hour of work hardening daily from 12/23/03 through 12/24/03 were medically necessary to treat this patient's condition.

Sincerely,